

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
CIVIL CASE NO. 3:19-cv-00291-MR**

DEREK ANTOINE SMITH,)	
)	
Petitioner,)	
)	
vs.)	<u>ORDER</u>
)	
ERIK A. HOOKS,)	
)	
Respondent.)	
_____)	

THIS MATTER is before the Court on the Order of the United States Court of Appeals for the Fourth Circuit remanding this case for the limited purpose of determining whether the Petitioner has demonstrated excusable neglect or good cause warranting an extension of the appeal period. [Doc. 14].

As noted by the Fourth Circuit, the Petitioner's Notice of Appeal was filed within the thirty-day excusable neglect period. See Fed. R. App. P. 4(a)(5). In that Notice, the Petitioner states that because of the restrictions imposed as a result of the ongoing coronavirus pandemic, he is unemployed and therefore could not afford a stamped envelope in order to timely mail his appeal. [Doc. 11].

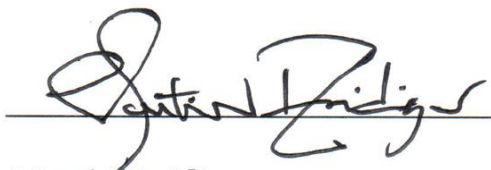
For the reasons stated in the Petitioner's Notice of Appeal, the Court finds that good cause has been shown. The Court therefore will allow an extension of the time to file a notice of appeal for a period not to exceed 30 days from the expiration of the time otherwise prescribed by Fed. R. Crim. P. 4(a)(1)(A). Accordingly, the Petitioner's Notice of Appeal shall be deemed to have been timely filed.

IT IS, THEREFORE, ORDERED that the time to file a notice of appeal is **EXTENDED** *nunc pro tunc* for a period of thirty (30) days, and the Petitioner's Notice of Appeal is hereby deemed to have been timely filed.

The Clerk of Court is respectfully directed to supplement the record of this matter and return the record to the Court of Appeals for further consideration of the Petitioner's appeal.

IT IS SO ORDERED

Signed: March 16, 2021



Martin Reidinger
Chief United States District Judge

